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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,036	03/16/2004	Francois Joncourt	5010-1008	1268
466	7590	06/06/2006	EXAMINER	
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			COLLADO, CYNTHIA FRANCISCA	
			ART UNIT	PAPER NUMBER
			3618	

DATE MAILED: 06/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/801,036	<b>Applicant(s)</b> JONCOURT, FRANCOIS	
	<b>Examiner</b> Cynthia F. Collado	<b>Art Unit</b> 3618	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 AND 13 is/are pending in the application.
- 4a) Of the above claim(s) 2, 12 and 14-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4 and 7-11 is/are rejected.
- 7) ☒ Claim(s) 5, 6 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/8/2004</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

Applicant's election of species I, figures 1-11 and 13 in the reply filed on March 16, 2004 is acknowledged. Claims 2,12,14-23 have been withdrawn from consideration. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

#### ***Claim Rejections - 35 USC § 112***

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. Appropriate correction is required. A few examples are:

Claim 1 recites the limitation "Device" in lines 1 and 3; examiner is unclear regarding the applicant's selection to double inclusion. Appropriate correction is required.

Claim 1 recites "on one hand, and on the other hand " in lines 11 and 12 is unclear. Examiner is not sure what applicant is referring to. Appropriate correction is required. **Note: It is required that claims are revised or completely rewritten.**

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3,4,7,9,10,11 are rejected under 35 U.S.C. 102(b) as being anticipated by Western'033 (US Patent No.6, 139,033).

Regarding claim 1, Western discloses a chassis having a lower end and an upper end (see figure 2, element 15), the latter having a device for its support on the ground comprising at least one element for support on the ground (see figure 2, elements 12 and 32), the chassis being connectable to a user by means of an attaching device (see figure 2, element 17), wherein said chassis is composed of a lower portion and an upper portion forming (see figure 2, element 15), wherein the legs of the V of each of the portions converge to join or cross each other in an area where they are connected to each other (see figure 2, element 15), all or part of the load being intended to be placed in the area, and wherein the ratio  $H1/H2$  of the heights of the V of the lower portion(see figure 2, element 15) and the upper portion, respectively, is equal to a defined value N.

Regarding claim 3, Western discloses wherein the chassis comprises two longitudinal girders (see figure 2, element 15), preferably tubular ones, crossing each other while extending one above or underneath the other, said girders being interconnected by a fastening member at the location of their crossing, and wherein means are provided to ensure a parallelism between the axis of the supporting element of said support device, which is arranged at the ends of the legs of the V of said lower portion, on one hand, and on the other hand, a straight line connecting the ends of the legs of the V of said upper portion (column 3, lines 5-34).

Regarding claims 4 and 10, Western discloses wherein the means ensuring the parallelism are formed of at least one brace see figure 2, element 14).

Regarding claim 7, Western discloses wherein the element for support on the ground is disposed either between the legs of the V of said lower portion, or on either side and on the outside of said legs (see figure 2, element 12), and wherein said support element is advantageously formed of at least one wheel or at least one ski (see figure 2, element 32).

Regarding claim 9, Western discloses wherein the chassis comprises at least one, preferably two cross members disposed on both sides of the convergence or crossing location of the lower and upper portions (see figure 2, element 14).

Regarding claim 11, Western discloses wherein the cross members (see figure 2, element 15) serve a double function of reinforcing the chassis and of demarcating a privileged area of a seat for the transported load, straps being possibly provided for securing the same (see figure 2, element 17).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Western'033 (US Patent No.6, 139,033) in view of Donze et al'116 (US Patent No.5, 149,116).

Western discloses two girders, but fails to teach them being adjustable, however Donze discloses wherein the lengths of the two girders are adjustable and variable. Based on the teaching of Donze, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the transporting device of Western to include adjustable girders as in Donze so as to provide the comfort to the taller population.

#### ***Allowable Subject Matter***

Claims 5,6 and 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Patent No.2, 660,446 issued to G.E.Edhardt teaches a folding wheelbarrow.

Patent No.4, 564,203 issued to Wilson teaches a transport aid for a frame  
stepladder.

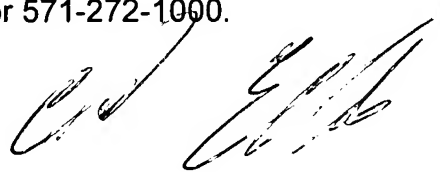
Patent No.1, 623,321 issued to E.A.Smith et al teaches an agricultural  
Implement.

Any inquiry concerning this communication or earlier communications from the  
examiner should be directed to Cynthia F. Collado whose telephone number is  
(571)2728315. The examiner can normally be reached on mon-fri 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's  
supervisor, Chris Ellis can be reached on (571)2726914. The fax phone number for the  
organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the  
Patent Application Information Retrieval (PAIR) system. Status information for  
published applications may be obtained from either Private PAIR or Public PAIR.  
Status information for unpublished applications is available through Private PAIR only.  
For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should  
you have questions on access to the Private PAIR system, contact the Electronic  
Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a  
USPTO Customer Service Representative or access to the automated information  
system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
CFC 5/26/06



CHRISTOPHER P. ELLIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600